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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/786,611	03/06/2001	Masanori Ito	10873.641USW	1438
53148	7590	09/06/2006	EXAMINER	
HAMRE, SCHUMANN, MUELLER & LARSON P.C. P.O. BOX 2902-0902 MINNEAPOLIS, MN 55402			NGUYEN, HUY THANH	
		ART UNIT	PAPER NUMBER	
		2621		

DATE MAILED: 09/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/786,611	ITO ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	HUY T. NGUYEN	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 12 June 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 51-53,55-60,62,63,88-91,93-98,100,101 and 141-144 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 57-60,62,63,95-98,100 and 101 is/are allowed.
- 6) Claim(s) 51-53,55-56,88-91,93-94 and 141-144 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 141-144 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 111-114 direct to information stored on a medium. Since the information do not provide any functional interrelationship to the medium to control the medium or access the information on and from the medium, or impart to any software and hardware structural components to provide certain function that is processed by a computer, the information on the medium do not make them statutory. See MPEP 2100.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 141 and 143 are rejected under 35 U.S.C. 102(b) as being anticipated by Moriyama (5,572,333).
5. Regarding claim 141 and 143 , Moriyama discloses a medium on which BENG recorded with packets of fix length and logical blocks (Fig. 5 column 6 ).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 51-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakatani et al (6,118,924) with Moriyama (5,572,333).

Regarding claim 51, Nakatani discloses a recording apparatus comprising :  
a recording section for recording logical blocks of video data on a medium  
(Fig. 15);  
a logical block managing section for managing whether a logical block is used  
for not (Figs. 7,19 column , 18, lines 5-67) ;

a continues data ea detecting section for detecting a continuous data area based on the status of logical block managed by the logical bock managing section , the recording section record stream data on the continuous data area (column 18, lines 44-67, column 22).

Nakatani fails to specifically teaches that the data stream recorded with logical block formed by packets .

Moriyama teaches a recording apparatus for recording packets data in logical bocks (column 6, lines 1-25. I would have been obvious to one of ordinary skill in the art to modify Nakatani with Moriyama by providing apparatus of Nakatani with means for generating the stream data of Nakatani into data packets of the logical bocks thereby accurately controlling and accessing the stream data .

Regarding claim 52 Nakatani further teaches the recording stream data in logical bocks enabling the reproduction rate (column 2, lines 50-65).

Regarding claim 55, Nakatani further teaches the data are recorded without interruption (column 22, lines 60-65) .

Regarding claim 56, Nakatani further teaches the packet having fix length (See Moriyama column 5, lines 1-20.

Regarding clam 53, Nakatani as modified with Moriyama fails to teaches that the packet are transport packets . However, it is noted that using a receiving means for receiving the transport packet is well know in the art . Therefore Official Notice is taken and it would have been obvious to one of ordinary skill in the art to modify

Nakatani as modified with Moriyama by providing the apparatus of Nakatani with a receiving means for receiving the transport packet as an additional data source .

Method claims 88-91 and 93-94 correspond to apparatus claims 51-53 and 55-56. Therefore method claims 8-91 and 93-94 are rejected by the same reason as applied to apparatus claims 51-53 and 55-56.

8. Claims 142 and 144 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moriyama (5,572,333) in view of Official Notice ..

Regarding claims 142 and 144 , Moriyama fails to teaches that the packet are transport packets . However, it is noted that using a receiving means for receiving the transport packet is well know in the art . Therefore Official Notice is taken and it would have been obvious to one of ordinary skill in the art to modify Nakatani as modified with Moriyama by providing the apparatus of Nakatani with a receiving means for receiving the transport packet as an additional data source.

#### ***Allowable Subject Matter***

9. Claims 57-60,62-63,95-98 ad 100-101 are allowed.

#### ***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 2621

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUY T. NGUYEN whose telephone number is (571) 272-7378. The examiner can normally be reached on 8:30AM -6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Groody can be reached on (571) 272-7950. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

H.N

  
HUY N. NGUYEN  
PRIMARY EXAMINER